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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,968	08/03/2001	Mark Emanuel Wall	196001-2001	7666

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NEW YORK, NY 10151

EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,968

Applicant(s)

WALL, MARK EMANUEL

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Examiner's Response

1. In response to applicant's amendment filed 3-22-04, all the amendments to the specification and claims have been entered.

The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has not pointed out support in the specification as originally filed for new limitation added to claims 1, 11, 22 and 22 of controlling intellectual content or

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functional access of the user to the system or commodity in a pre-delivery period. Page 13 lines 5 and 15 recite control of a "delivered" device or software. The past tense "delivered" is post delivery, not pre-delivery. The examiner could not find pre-delivery in the specification.

Claim Rejections - 35 USC § 102 & 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-4, 6, 8-14, 16, 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy (US 6225590). Initially, it is noted that the claims are replete with alternative language such as "system or commodity" and Murphy only need include one of the alternative limitations to anticipate the claims. Murphy discloses a vehicle use controller that limits access to the vehicle to permitted times and locations. See at least the abstract. The different LD systems (GPS, GLONASS, LEO, LORAN or similar LD systems) encompass the systems of claims 8-10 and 18-20. Regarding the new limitations added to independent claims 1, 11, 21 and 22, Murphy includes a position determination system in the form of LD module 173 with LD receiver/processor in fig. 6 in col. 13 lines 28-33. A clock is inherent in the LD module because it provides time information (in addition to location information)

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to the control module 179 and the control module is a discrimination device that compares the information from the LD module with operation restrictions in col. 13 lines 53-65. The control module 79 permits functional access to the system when access parameters are satisfied by controlling operation of the vehicle in col. 13 line 66 - col. 14 line 17. Regarding controlling functional access to the system or commodity pre-delivery and post delivery, col. 10 lines 1-28 discloses fleet of vehicles for rental or business use with controlled access before and after a person arrives at a chosen vehicle so that the fleet is secure at all times. Arriving at the vehicle represents delivery. Further, col. 12 lines 28-44 includes restricted access for all operators based on location and time so that access is controlled both before and after delivery to a renter or other authorized user. Regarding extending functional control access capabilities of the user to the system from one location to another in varying time intervals for transportable use, Murphy includes adding new users in col. 7 line 45 and col. 15 lines 55-56. Further, the location and time parameters may be varied by a user token in col. 6 lines 55-67 and changed remotely or locally in col. 12 lines 17-27 and col. 14 lines 23-45. Regarding a plurality of identical systems in different location permitted to be simultaneously controlled by the

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provider, Murphy includes a fleet of vehicles in col. 1 lines 32-33, col. 10 lines 1-28 and col. 11 lines 50-59. The vehicles operate simultaneously and control is directed to identical vehicle systems such as fuel or ignition cutoff and door locks.

6. Claim 9-10 and 19-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (US 6225590) as applied above in combination with Schipper (US 5969595). Schipper discloses an analogous art vehicle security system with LD system that may be GPS, GLONASS, LORAN or other satellite or ground based systems. See at least the abstract. Regarding claims 9 and 19, if cellular towers is not clear in Murphy then it would have been obvious in view of the reference to other ground based systems in Schipper because LORAN uses ground based broadcast towers and ground based cellular systems include location information for handoff. Regarding claims 10 and 20, if a shaped beam transmitter is not clear in Murphy then it would have been obvious in view of the reference to other satellite based systems in Schipper because IRIDIUM is a known shaped beam satellite system with location information.

7. Claim 5, 7, 15, 17, 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (US 6225590) as applied above in combination with Klanke (US 6313791). Kanke discloses an analogous art vehicle system controlled by permissible time

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and location including control of locks to cargo containers in col. 10 line 34 - col. 11 line 19. Regarding claims 25 and 29, the cargo in Klanke includes products of nature such as livestock and fresh meat, fish, flower and the like in col. 10 lines 55-57. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Murphy the control of access to commodity such as a cargo container based on permissible time and location as disclosed in Kanke for prevent cargo theft.

8. Claim 23-24, 26-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (US 6225590) as applied above in combination with Teare (US 5243652) and Bednarek (US 5621793). Murphy includes vehicle accessory control in col. 5 line 35. Teare discloses controlling access to information such as entertainment video movies (claims 24 and 28) or data programming (software of claims 23 and 27) in a vehicle based on location and time in col. 2 lines 11-25. Such movies and software inherently have a price of claims 26 and 30. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included such entertainment accessory control of Teare in the invention of Murphy because Murphy includes accessory control and Tears discloses in col. 1 lines 11-30 the advantage of location based control of access to

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vehicle accessory information to prevent illegal copying. If digital signals of claims 24 and 28 are not clear in Teare, then such would have been obvious in view of Bednarek including digital video for compression (col. 1 line 18) in a location controlled system (col. 1 line 9) for use in a vehicle (col. 2 line 24) with incorporation by reference of Teare (col. 1 lines 39-65).

Response to Arguments

9. Applicant's arguments filed 3-22-04 regarding claims 1-30 have been fully considered but they are not persuasive and/or are moot in view of the new ground(s) of rejection. Applicant's amendments to add new limitations to the claims to overcome the prior art rejections have required new rejections that make the arguments moot. Further, the argument that Murphy is deficient is not persuasive for the reasons stated in the above rejections. In particular, the argument that Murphy lacks pre and post delivery control because the cargo is not monitored after delivery is not persuasive because Murphy is not limited to controlling access to cargo. Murphy controls access to a fleet of vehicles with access being control at all times, before and after arrival or delivery to the user.

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Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

CONTACT INFORMATION

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact an Electronic Business Center (EBC) representatives at 703-305-3028 or toll

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free at 866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at ebc@uspto.gov. The Patent EBC is a complete customer service center that supports all Patent e-business products and service applications. Additional information is available on the Patent EBC Web site at <http://www.uspto.gov/ebc/index.html>.

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (703) 305-4700 or TC 2600 Customer Service at (703) 306-0377.

Facsimile submissions may be sent via fax number (703) 872-9306 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (703) 305-4818. The examiner can normally be reached on M-F (8:30-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704.

EH
6/13/04


EDWIN C. HOLLOWAY, III
PRIMARY EXAMINER
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